

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Use of Returned 2 GHz Mobile Satellite Service	)	IB Docket No. 05-220
Frequencies	)	IB Docket No. 05-221
	)	
To: The Commission	)	
	)	

COMMENTS OF UNITED STATES CELLULAR CORPORATION

United States Cellular Corporation, ("United States Cellular"), by its attorneys, submits its comments in response to the Commission's Public Notices released June 29, 2005, requesting comment on proposals for considering various options involving the redistribution or reallocation of 2 GHz Mobile Satellite Service ("MSS") Spectrum in the 2000-2020 MHz and 2180-2200 MHz bands. These comments address the Commission's proposals in both of the above-captioned dockets because as described here we believe the Commission's mandate to regulate in the public interest requires a comprehensive and non-prejudicial review in rulemaking proceedings to determine how abandoned 2 GHz MSS spectrum can best be used.<sup>1</sup>

Introduction

Telephone and Data Systems, Inc., the parent of United States Cellular, has previously filed comments and reply comments in response to the Commission's Notice of Proposed Rulemaking and its Memorandum Opinion and Order and Further Notice of Proposed Rulemaking in its Advanced Wireless

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<sup>1</sup> As explained in the Commission's Public Notice, its proposals arise because the Commission has recently reclaimed abandoned 2 GHz MSS spectrum from three additional MSS satellite operations, Iridium, The Boeing Company and Cellsat.

Service rulemaking in ET Docket No. 00-258, ET Docket No. 95-18 and IB Docket 99-81 urging the Commission to take the following steps:

- (1) Allocate sufficient spectrum to support the development and expansion of vibrant advanced wireless terrestrial ("AWS") networks; and
- (2) Define AWS markets in small enough areas to permit regional and local wireless providers to obtain AWS spectrum at auction so that they can remain viable competitors.

In these comments, we discuss the continuing challenges which the Commission faces to provide adequate spectrum resources for regional and local terrestrial CMRS providers to meet near term needs for AWS uses and to make sure that AWS spectrum will be offered for licensing under auction selection at an early opportunity.

We support the recommendations of T-Mobile that the Commission initiate a "full notice and comment rule making" to consider the reallocation of all 24 MHz of the abandoned 2 GHz MSS spectrum.<sup>2</sup> We oppose any premature redistribution of this spectrum to TMI Communications and Company, Limited Partnership ("TMI") and ICO Satellite Services ("ICO"). Alternatively, and at a minimum, the Commission should issue a Notice of Proposed Rulemaking inviting comment on the reallocation of one-third of the 2 GHz MSS spectrum for terrestrial mobile and fixed uses subject to auction selection.

### Discussion

1. The Commission's Prior Findings Supporting Allocation of Additional Spectrum for AWS Uses and the Record of Dynamic Growth of Terrestrial CMRS Subscribership Support Rulemaking to Reallocate Abandoned 2 GHz MSS Spectrum for AWS Uses.

Terrestrial wireless communications represent the most dynamic segment of the telecommunications market and one of the greatest industrial successes in our nation's history.

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<sup>2</sup> Comments of T-Mobile USA, Inc. ("T-Mobile") in IB Docket No 05-220 dated July 13, 2005, p.10.

Commissioner Abernathy commented recently on the broad consumer acceptance and the dynamic growth of wireless services citing a recently released FCC Report showing that the number of wireless subscribers surpassed the number of landline telephone subscribers.<sup>3</sup> We agree that the terrestrial wireless industry can now be rightfully recognized as a vital, irreplaceable and increasingly universal communications provider to U.S. consumers and businesses.

The Commission's spectrum policies opening up opportunities for national, regional and local wireless providers to acquire the spectrum resources should be responsive to the dynamic growth of this industry. The growth in terrestrial CMRS subscribership cited by the Commission in support of its January 2003 decision to reallocate abandoned 2 GHz MSS spectrum has accelerated.<sup>4</sup> Since that decision, three additional 2 GHz MSS satellite licensees have abandoned their licenses and the system operation milestones of the remaining two licensees have been extended. In our view this underscores the need for the Commission to re-evaluate what amount of 2 GHz MSS is reasonably required to meet projected demand for 2 GHz MSS services.

The Commission has already concluded in its AWS proceeding that additional spectrum is needed for terrestrial CMRS services.<sup>5</sup> The AWS spectrum allocated in the 1.7/2.1 GHz bands and the proposed H-Block and J-Block spectrum will provide some room for expansion and growth of terrestrial wireless services for AWS uses but is inadequate to meet anticipated

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<sup>3</sup> Speech of Commissioner Kathleen Q. Abernathy to the New England Cable & Telecommunications Association, July 15, 2005, p. 2. See also Report of Industry Analysis and Technology Division, Wireless Competitive Bureau, *"Local Telephone Competition: Status as of December 31, 2004,"* July 2005, Tables 1 and 13.

<sup>4</sup> Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, *Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order* (FCC 03-16), in ET Docket No. 00-258 released February 10, 2003, Para. 30.

<sup>5</sup> Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, *Second Report and Order* (FCC 02-304) in ET Docket No. 00-258 released November 15, 2002, Para. 12.

demand over the next 10-20 years. The extensive record in the proceedings which led to the adoption of new allocations of AWS spectrum lends strong support for a comprehensive and non-prejudicial Commission review of optional uses of the recently abandoned 2 GHz MSS spectrum for expanded AWS uses.

We support T-Mobile's request that the Commission initiate full notice and comment rulemaking proceedings to consider whether all or a substantial portion of the recently abandoned 2 GHz MSS spectrum should be reallocated for AWS uses. The consumer benefits from such a reallocation are self-evident. The dynamic and competitive market place for mobile and fixed services will only be enhanced if terrestrial CMRS providers are given access to the spectrum resources they need to meet consumer demand for new and innovative services. The FCC report cited by Commissioner Abernathy as well as the extensive record of customer service and benefits already documented by the Commission in prior AWS proceedings supports this conclusion.

2. The Commencement of Comprehensive Rulemaking Proceedings Regarding Reallocation of Abandoned 2 GHz MSS Spectrum for AWS Uses Would Not Adversely Affect Incumbent MSS Licensees.

The comprehensive review of possible redistribution and reallocations options requested by T-Mobile is plainly not prejudicial to the ability of TMI and ICO to commence operations several years from now. The Commission should not arbitrarily set aside portions of the abandoned 2 GHz MSS spectrum so that the best uses of that spectrum cannot be examined in rulemaking proceedings. As pointed out by T-Mobile and CTIA, neither TMI nor ICO have systems in operation and their system operation milestones are still two or more years away.<sup>6</sup> The Commission found in similar circumstances when it was considering the reallocation of 30 MHz of 2 GHz MSS spectrum in its AWS rulemaking that it was appropriate "to explore and

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<sup>6</sup> Comments of T-Mobile, p. 3; Comments of CTIA – The Wireless Association ("CTIA") dated July 13, 2005, p. 6.

seek comment on a broader range of options for deployment of advanced wireless services, without adversely affecting the 2 GHz MSS systems' ability to commence operations."<sup>7</sup> We urge the Commission to do likewise here.

3. The Reallocation of Abandoned 2 GHz MSS Spectrum for AWS Uses Would be a Suitable Addition to the J-Block Spectrum Previously Reallocated for Such Uses.

We also concur with CTIA's assessment that the abandoned 2 GHz MSS spectrum is a well suited and valuable resource to provide terrestrial mobile and fixed services on a stand-alone basis or in conjunction with PCS and AWS spectrum. The portions of the 2 GHz MSS bands potentially available to reallocate are immediately adjacent to the J-Block, 2020-2025 MHz paired with 2175-2180 MHz. Having already found that this J-Block spectrum is "...best suited for AWS use,"<sup>8</sup> the Commission should weigh carefully whether the best use of such adjacent spectrum shouldn't also be for AWS use. Reallocating one-third or more of the current 40 MHz of 2 GHz MSS spectrum as paired spectrum adjacent to the J-Block for terrestrial CMRS uses will enhance flexibility, spectrum efficiency and deployment options. In any event the Commission should not limit its review by arbitrarily setting aside some portion of this abandoned 2 GHz MSS spectrum for use by TMI or ICO.

### Conclusion

As described above, the Commission has already found that additional spectrum should be allocated for AWS uses by terrestrial CMRS providers. It has also found in prior proceedings

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<sup>7</sup> Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to support the Introduction of New Advanced Wireless Services, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* (FCC 01-224) in ET Docket No. 00-258, released August 20, 2001, Para. 22.

<sup>8</sup> Amendment of Part 2 of the Commission's rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New and Advanced Wireless Services, *Sixth Report and Order and Third Memorandum Opinion and Order* (FCC 04-219), in ET Docket No. 00-258, released September 24, 2004, Para. 47.

that the redistribution or reallocation of abandoned 2 GHz MSS spectrum for use by terrestrial CMRS providers would be the "best use" of such spectrum. The trend of dynamic growth in consumer acceptance of terrestrial CMRS services cited by the Commission in support of its previous reallocation of abandoned spectrum has accelerated while 2 GHz MSS licensees continue to abandon their licenses or to extend their commencement of service milestones. These considerations provide a compelling basis for the Commission to undertake the comprehensive and non-prejudicial review of its spectrum options in full notice and comment rulemaking proceeding which we support.

Respectfully submitted,

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